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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,945	03/13/2002	Hideto Furuta	356882001200	4691
7590	06/01/2006			EXAMINER AZAD, ABUL K
BARRY E. BRETSCHNEIDER MORRISON & FOERSTER LLP 1650 TYSONS BLVD., SUITE 300 MCLEAN, VA 22102			ART UNIT 2626	PAPER NUMBER

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/070,945	FURUTA, HIDETO	
	Examiner	Art Unit	
	ABUL K. AZAD	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 17 March 2006.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 6-11 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 6-11 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

Response to Amendment

1. This action is in response to the communication filed on March 17, 2006.
2. Claims 6-11 are pending in this action. Claims 1-5 have been canceled. Claims 6-11 have been newly added.
3. The applicant's arguments with respect to claims 6-11 have been fully considered but they are not deemed to be persuasive. For examiner's response to the applicant's arguments or comments, see the detailed discussion in the Response to the Arguments section.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 6-11 are rejected under 35 U.S.C. 102(a) as being anticipated by Fujioka et al. (JP 2000-56827).

As per claim 6, Fujioka teaches, "a voice attachment control apparatus," comprising:

"speech analysis means for speech-analyzing a voice command representative of an instruction by voice regarding a movement of said attachment element of a construction machine, the construction machine including the attachment element, actuating means connected to the attachment element to actuate the attachment

element and an operator cab for accommodating an operator to operate the attachment element"(Fig. 1, element 221A, Fig. 2, element A);

"speech discrimination means for discriminating the instruction of the voice command analyzed by said analysis means, the voice instruction being issued by the operator in the operator cab" (Fig. 1, element 221C); and

"machine body control means for controlling the operation the attachment element according to the voice instruction being discriminated by said speech discrimination means" (Fig. 1).

As per claim 7, Fujioka teaches, "wherein when said speech analysis means analyzes a first voice command and said speech discrimination means discriminates that the instruction of the first voice command is to start the operation of the attachment element, said machine body control means starts the operation of the attachment element, when said speech analysis means analyzes a second voice command and said speech discrimination means discriminates that the instruction of the second voice command is to make the attachment element carry out a first movement, said machine body control means controls the attachment element to carry out the first movement, when said speech analysis means analyzes a third voice command and said speech discrimination means discriminates that the instruction of the third voice command is to make the attachment element stop the first movement, said machine body control means controls the attachment element to stop the first movement, and when said speech analysis means analyzes a fourth voice command and said speech discrimination means discriminates that the instruction of the fourth voice command is to

make the attachment element carry out a second movement, said machine body control means controls the attachment element to carry out the second movement" (Paragraph 0014).

As per claim 8, Fujioka teaches, "wherein when said speech analysis means analyzes a particular voice command and said speech discrimination means discriminates that the instruction of the particular voice command is to make the attachment element carry out a plurality of interlocked movements, said machine body control means controls the attachment element to carry out the plural interlocked movements" (Paragraph 0014).

As per claims 9-11, they are interpreted and thus rejected for the same reasons set forth in the rejection of claims 6-8.

Response to Arguments

6. the applicant argues as, "Claim 6 recites controlling the operation of the attachment element by way of the actuating means according to voice instructions by the operator in the operator cab of a construction machine. As asserted previously, Fujioka fails to teach or suggest this feature. Rather, Fujioka discloses a remote control system where the operation of a construction machine is directed remotely. Thus, the features of claim 6 are not taught or suggested by Fujioka. Fujioka likewise fails to teach or suggest the features of claims 7 and 8, which are also allowable at least due to their respective dependencies.

The examiner disagrees with the applicant's above assertion because it would be an option to an ordinary skill in the art without any criticality to element the remote communication and put the communication in side the cab in order to operate the construction machine and send the speech command, while inside the cab.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(571) 272-7599**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richemond Dorvil**, can be reached at **(571) 272-7602**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Or faxed to: **(571) 273-8300**.

Hand-delivered responses should be brought to **401 Dulany Street, Alexandria, VA-22314** (Customer Service Window).

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May 27, 2006



Abul K. Azad
Primary Examiner
Art Unit 2626